

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CEMENT MASONS LOCAL 527, et al.,

Plaintiffs,

V.

PALAZZOLO CONSTRUCTION, LLC,

Defendant.

Case No. 4:16-CV-1437 NAB

MEMORANDUM AND ORDER

This closed matter is before the Court on Plaintiffs' Memorandum to the Court and Motion for Leave to File Instanter Plaintiffs' Statement Regarding Appropriateness of Personal Contempt Against John Palazzolo. (Docs. 70, 71.) As is set forth below, the Court will require John Palazzolo to appear and show cause why he should not be incarcerated for failure to comply with the Court's orders.

I. Background

The Court previously granted Plaintiffs' motion for contempt against Defendant Palazzolo Construction, LLC. Defendant's conduct and omissions that led to a finding of contempt are set forth in the Court's July 27, 2018 and November 25, 2020 orders related to Plaintiffs' post-judgment motion for contempt, and they will not be repeated here. (Docs. 65, 69.) Ultimately Defendant Palazzolo Construction, LLC was found to be in contempt of this Court, Plaintiffs' request for an award of attorney's fees and costs incurred in bringing their motion for contempt was granted, and Plaintiffs' request for body attachment was granted but held in abeyance. The Court gave Defendant an opportunity to purge itself of the contempt order, and Defendant failed to do so.

With respect to Plaintiffs' Memorandum in Support of Body Attachment, Plaintiffs sought the body attachment of John Palazzolo, the principal of Defendant Palazzolo Construction, LLC. Considering the time that has passed since Plaintiffs' motion and the severity of the relief sought, on November 25, 2020, the Court instructed Plaintiffs to serve the Court's orders on Defendant and Mr. Palazzolo, and to confirm the appropriate address at which Mr. Palazzolo may be found for execution of a writ of body attachment. In response to the Court's Order, Plaintiffs filed the present submissions.

II. Plaintiffs' Memorandum to the Court

On December 9, 2020, Plaintiffs filed a Memorandum to Court. (Doc. 70.) Plaintiffs' submission included an affidavit confirming the Court's Orders dated May 4, 2018, July 27, 2018, and November 25, 2020 were personally served on John Palazzolo, along with a letter from Plaintiffs' counsel to Mr. Palazzolo. In the letter dated December 2, 2020, Plaintiffs reminded Mr. Palazzolo of the judgment entered against Defendant Palazzolo Construction, LLC, Defendant's failure to appear for deposition and produce documents, Defendant's failure to respond to the Court's orders, and the finding of contempt against Defendant. (Doc. 70-2.) Plaintiffs advised Mr. Palazzolo that to avoid the contempt and issuance of a Writ of Body Attachment, Mr. Palazzolo must contact Plaintiffs' counsel to make arrangements to appear for a deposition and produce the requested documents.

III. Plaintiffs' Motion for Leave to File Instanter Plaintiffs' Statement Regarding Appropriateness of Personal Contempt Against John Palazzolo

On February 2, 2021, Plaintiffs filed their Motion for Leave to File Instanter Plaintiffs' Statement Regarding Appropriateness of Personal Contempt Against John Palazzolo. (Doc. 71.) In support thereof, Plaintiffs state they experienced a delay in obtaining the information set forth due to misinformation provided by Defendant. Defendant has not opposed or otherwise

responded to Plaintiffs' motion. Accordingly, in the interest of full consideration of the issues that remain open in the Court's Orders dated July 27, 2018 and November 25, 2020, Plaintiffs' Motion for Leave to File Instanter Plaintiffs' Memorandum in Support of Body Attachment and Affidavit for Attorneys' Fees is hereby GRANTED. (Doc. 71.) The Court will now consider Plaintiffs' Statement.

In the Statement, Plaintiffs' counsel states that he telephoned Mr. Palazzolo, who stated that Defendant Palazzolo Construction, LLC was no longer in business. (Doc. 71-1.) However, Defendant maintains a web page which reflects that it is still in business, and Plaintiffs attach a copy of the web page to their Statement as Exhibit 1. Plaintiffs also utilized a private investigator to contact Mr. Palazzolo to determine whether Defendant is still in business. (Doc. 71-2.) On February 1, 2021, the investigator informed Plaintiffs' counsel that Mr. Palazzolo still operates his company in the construction field. (Doc. 71-3.)

Despite multiple opportunities to cure its noncompliance with Court orders, Defendant and its principal, John Palazzolo, have shown their contempt for this Court, and a writ of body attachment is appropriate. Not least among the evidence of Mr. Palazzolo's contempt is the fact that he was found and personally served with the Court's Orders and failed to contact Plaintiffs' counsel or the Court. Further, Mr. Palazzolo told Plaintiffs' counsel that Defendant is no longer in business, despite a private investigator's findings to the contrary. Under these circumstances, the Court finds that Mr. Palazzolo continues to be the correct person to bring before this Court for an examination under oath and to show cause why he should not be incarcerated for failure to comply with the Court's orders.

IV. Conclusion

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion for Leave to File Instanter Plaintiffs' Statement Regarding Appropriateness of Personal Contempt Against John Palazzolo is **GRANTED**. (Doc. 71.)

IT IS FURTHER ORDERED that Plaintiffs' request for a Writ of Body Attachment against Mr. Palazzolo is **GRANTED**. Mr. Palazzolo has previously been found at 442 Argent Ave, St. Louis, Missouri 63135. The United States Marshals are directed to bring Mr. Palazzolo before this Court without undue delay with costs assessed jointly against Mr. Palazzolo and Defendant Palazzolo Construction, LLC.

IT IS FURTHER ORDERED that the Clerk of Court shall send a copy of this Order to Defendant Palazzolo Construction, LLC at 11050 Mars Lane, Maryland Heights, Missouri 63042.

IT IS FURTHER ORDERED that the Clerk of Court shall send a copy of this Order to John Palazzolo at 442 Argent Ave, St. Louis, Missouri 63135.



NANNETTE A. BAKER
UNITED STATES MAGISTRATE JUDGE

Dated this 23rd day of February, 2021